



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

seem to be an entirely unjustifiable limitation on the rule declared in the statute and logically repugnant to that rule; but on the principle of interpreting statutes under the guidance of the common law, the court would seem properly to require an explicit declaration from the legislature before abandoning the exception.

THE DESTRUCTION OF MUNICIPAL CORPORATIONS WHERE CONTRACT OBLIGATIONS ARE THREATENED.—The courts seem very cautious in conceding that the obligations of contracts can be impaired by legislative action, yet since the case of *Meriwether v. Garrett* (188c) 102 U. S. 472, it appears to be settled that the legislature has this power when it is incidental to the abolition of a municipal corporation. Being but a part of the machinery employed in carrying on the affairs of the State, *Laramie Co. v. Albany Co.* (1873) 112 Mass. 200, a municipal corporation is necessarily under the sole control of the legislature, and it would be a usurpation of legislative functions for the courts to attempt to supervise that control. Only the Constitution can fix the limits of legislative activity. The power of taxation has frequently been held to be a governmental function and within the control of the legislature. It is held that this power can be controlled by contract so as to be within the protection of the constitution, *Von Hoffman v. City of Quincy* (1866) 4 Wall. 535; but it seems to be recognized that this is an anomalous line of decisions, and the broad proposition that the State cannot surrender control of its inherent powers of government has been frequently affirmed. Cooley's Const. Lim. 7th ed. 395. It would seem therefore that unless a contract with a municipal corporation can be brought within the decisions on the power of taxation its obligations cannot be protected by the Constitution from the free exercise of legislative discretion, and that if no relief for creditors is provided by the legislature the courts can give none.

This seems to have been the reasoning and the decision in *Meriwether v. Garrett*, and it seems necessarily to involve a power in the legislature to impair the obligation of a contract, though as in a recent case, *Ex parte Folsom* (1904) 131 Fed. 496, the courts have frequently suggested that there can be no such power. A distinction, however, has been drawn between the total annihilation of a municipal corporation and a mere change in its form and powers. Where it has been merged with another corporation its debts follow and the merged corporation is responsible for them. *Mobile v. Watson* (1886) 116 U. S. 289. So also if the old corporation continues to exist the legislature cannot relieve it of its debts or prevent their enforcement if there are officers and machinery enough to act, *Wolff v. New Orleans* (1880) 103 U. S. 358, and this was found to be the result in the principal case, though the officers authorized to act were primarily officers of another corporation. But if, as in the *Meriwether* case, the corporation has been so completely absorbed back into the State as to leave no machinery or powers on which the court may attack its decree, it would seem that creditors can hold the private property of the corporation and that beyond this they are helpless. The feudal idea of a vested right in the exercise of the powers of government has not found favor in our courts.